

REMARKS

[0004] In the above referenced office action, Claims 1-56 stand rejected. Claims 2, 3, 17, 22, 23, 32, 33, 45, and 51 are being amended. Claims 1-56 are pending in the application. No new matter is being added.

Rejections Under 35 USC § 102(b)

[0005] Claims 1, 7, 11, 12, 21, 29-31, 38, 40, 44, 50 and 54 have been rejected under 35 USC § 102(b) as being anticipated by U.S. Patent 6,157,377 to Shah-Nazaroff et al. (hereinafter "Shah-Nazaroff"). For the reasons set forth below, Applicants respectfully traverses the rejections of these claims and reconsideration is hereby respectfully requested.

Cited Reference

[0006] The Shah-Nazaroff reference (Abstract) describes a method and apparatus for purchasing upgraded media features for programming transmissions. A selection is sent to a server system to buy an upgraded media feature for a programming transmission. The server system automatically coordinates purchasing the media feature from a programming transmission source and providing the media feature from the programming transmission source. In one embodiment, an entertainment system includes a user interface from which a viewer selects an upgraded media feature for a programming transmission, wherein the programming transmission with the upgraded media feature is provided to the entertainment system.

Overview of the Instant Application

[0007] As noted in the paragraphs [0003]-[0004] of the background section of the instant Application, it would be routine for a user to be able to use a user interface for selecting a program or a movie with options for high resolution, stereo audio, etc., for on-demand purchase and viewing. However, the user may not be able to receive the benefit of dynamically adjustable content pricing after the user has made the option selection and purchase. That is, once the user has made an initial selection, the apparatus providing the program or the movie may be unable to dynamically change the content pricing. The Applicants recognize that it would be desirable to provide a system for control-based content pricing that reflects user's viewing choices and selections during playback of the requested media, and enables targeted advertising and media content delivery, while maintaining consumer privacy.

[0008] To address this issue, among others, the Application describes a control-based pricing system for ordering and distributing media content. The system includes novel tools and techniques that provide increased revenues and reduced costs. Methods and systems that enable users to dynamically control pricing associated with media content are described. In one embodiment of control-based content pricing system, a content server distributes media content to a client device in response to a request from the client device to receive the media content. A valuation application allocates a cost to the client device when the media content is distributed to the client device. The content server receives a view control input from the client device that indicates how the media content is to be rendered and the valuation application adjusts the cost according to the view control input and how the media content is to be rendered.

Anticipation Rejections

[0009] For the reasons set forth below, Applicant submits that the cited reference fails to provide sufficient evidence to support the findings and legal conclusion set forth in the Office Action (OA). As stated specifically below, the Shah-Nazaroff reference fails to provide sufficient evidence under the § 102 standards. Accordingly, Applicants respectfully request that the § 102 rejections be withdrawn and the application be passed to allowance.

Independent Claim 1

[0010] The OA states (pages 2, 3) the following with regard to Claim 1: Shah-Nazaroff teaches a content server **140** which, "automatically coordinates billing for the upgraded media features, and automatically coordinates providing the upgraded media features from broadcast sources **130** (Col. 3, Lines 11 -14). Fig. 5 teaches an interactive display by which the user can request program content (e.g., a pay-per-view (PPV) or video on demand (VOD) movie) to be transmitted from the broadcast source to the user's device. As to the recited, view control input from the client device that indicates how the media content is to be rendered, the interactive display taught in Fig. 5 allows the user to indicate the format in which he wishes to receive said content (e.g., if the user wishes to receive said requested content in high-definition) and provides the equivalent functionality of the recited view control input. Claim 1 further recites, "... a valuation application configured to allocate a cost to the client device when the media content is distributed, the valuation application further configured to adjust the cost according to the view control input and how the media content is to be rendered." As discussed above, Fig. 5 teaches an interactive menu which allows the user to order a PPV or VOD program as well as to specify the format in which he wishes to receive said program (e.g., improved resolution, etc). The user is then billed for the cost of the program as well as any additional options (e.g., receiving the program in high-definition) he has selected. This above serves as the claimed valuation application.

[0011] Applicants respectfully disagrees with the OA assertion and submit that the OA has mischaracterized the evidence in the Shah-Nazaroff reference (particularly content server 140, sources 130, and FIG. 5), which neither discloses or suggests each and every limitation of Claim 1, including 'a valuation application configured to **allocate**

a cost to the client device when the media content is distributed, the valuation application further configured to **adjust the cost** according to the view control input and how the media content is to be rendered' (emphasis added). The OA assertion that allocating a cost and making a subsequent adjustment to the cost recited in Claim 1 is the same thing as FIG. 5 teaching an interactive menu for ordering a PPV or VOD program (including options such as high resolution, etc.) and the user getting billed for the ordered PPV or VOD program described in Shah-Nazaroff (FIG. 5 and Col. 6, lines 15-48) is misplaced.

[0012] FIG. 5 in the Shah-Nazaroff reference illustrates a display screen to display available options to a user for ordering a PPV or VOD program and displaying associated costs for each of the options. Once the user clicks on the 'submit' button, the user selection is made final, the program content is delivered to the user, and the costs associated with the user selected options are billed to the user. Thus costs that are displayed on the screen are fixed and non-adjustable once the user clicks the 'submit' button. The Shah-Nazaroff reference only enables the user to select program content once and bills the user in accordance with the previously displayed and agreed upon costs for the selected program content. Therefore, the Shah-Nazaroff reference does not expressly or inherently teach or suggest adjusting the costs after the costs have been previously agreed upon and confirmed by the user.

[0013] Furthermore, Applicants submit that the unique ability of the control-based content pricing system to allocate a cost and then subsequently adjust the cost in accordance with the view control input increases flexibility available to the user. Therefore, the cost adjustment limitation makes it possible to dynamically adjust the user billing in accordance with the changes made by the user to control the program content after the initial selection. Applicants submit that a large (and unsupported) assumption is required to link the asserted evidence found in the Shah-Nazaroff

reference to the claimed initial allocation of a cost to the client device and subsequent adjustment to the cost based on the view control input recited in Claim 1.

[0014] Therefore, under the standards of § 102, the Shah-Nazaroff reference does not expressly or inherently teach or suggest the particular features as recited in Claim 1, including 'a valuation application configured to **allocate a cost** to the client device when the media content is distributed, the valuation application further configured to **adjust the cost** according to the view control input and how the media content is to be rendered' (emphasis added).

[0015] Consequently, for at least the above reasons, Applicants respectfully submit that anticipation rejection of Claim 1 is not valid, since anticipation under § 102 requires that each and every element as set forth in the rejected claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131). Accordingly, Applicants request the Examiner to withdraw the rejection of Claim 1.

Dependent Claim 7

[0016] The OA states (page 3) the following with regard to Claim 7:

The presence of multiple streams is inherent in a VOD application, such as that taught by Shah-Nazaroff, since activating an interactive or VCR-like function, such as fastforward or rewind, will cause the user to receive a rewind or fast-forward stream respectively from the distribution point. Insofar as claim 7 recites limitations which are inherent in the system of claim 1, claim 7 is rejected by Shah-Nazaroff as applied to claim 1.

[0017] Applicants respectfully disagrees with the OA assertion and submit that the OA has mischaracterized the evidence in the Shah-Nazaroff reference (particularly content server 140, sources 130, and FIG. 5), which neither discloses or suggests each and every limitation of Claim 7, including 'wherein the valuation application is further configured to adjust the cost based on the second media stream'. Applicants

respectfully submit that Shah-Nazaroff (FIG. 5 and Col. 6, lines 15-48) teaches displaying costs in accordance with user selected options but does not teach or suggest a valuation application being configured to 'adjust the cost based on the second media stream'.

[0018] Consequently, for at least the above reasons, Applicants respectfully submit that anticipation rejection of Claim 7 is not valid, since anticipation under § 102 requires that each and every element as set forth in the rejected claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131). Accordingly, Applicants request the Examiner to withdraw the rejection of Claim 7.

Independent Claims 21, 31, 44, 50 and Dependent Claims 29, 30, and 54

[0019] The OA rejected independent Claims 21, 31, 44, 50 and dependent Claims 29, 30, and 54 under 35 USC § 102(b) for reasons similar to those stated in regards to Claim 1. Applicants respectfully submit that for reasons similar to those stated above in regards to Claims 1, anticipation rejection of independent Claims 21, 31, 44, 50 and dependent Claims 29, 30, and 54 is not valid, since anticipation under § 102 requires that each and every element as set forth in the rejected claim is found, either expressly or inherently described, in a single prior art reference (MPEP §2131). Accordingly, independent Claims 21, 31, 44, 50 and dependent Claims 29, 30, and 54 are allowable in their present form for at least this reason.

Dependent Claims 11, 12, 38 and 40

[0020] Claims 11-12 depend from Claim 1 and Claims 38, 40 depend from Claim 31. For reasons similar to those stated above in regards to Claims 1 and 7 rejected under 35 USC § 102(b), Claims 11, 12, 38 and 40 are allowable in their present form for at least this reason.

Rejections Under 35 USC § 103(a)

[0021] The OA states that:

(a) Claims 2, 9, 10, 22, 27, 28, 32, 37, 39, 48, 49, 52, and 53 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff.

(b) Claims 3, 5, 6, 17, 19, 20, 23, 24, 26, 33, 35, 45, 47, 51 and 56 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff in view of Hoffberg et al. (US Patent No. 6,400,996) (hereinafter "Hoffberg").

(c) Claims 13-15, 41, and 42 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff in view of Eldering et al. (US Patent Application Publication No. 2003/0149975) (hereinafter "Eldering").

(d) Claims 4, 18, 25, 34, 46, 55 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff in view of Hoffberg and further in view of Eldering.

(e) Claims 8 and 16 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff in view of Stuckman et al. (US Patent Application Publication No. 2004/0111756) (hereinafter "Stuckman").

(f) Claims 16 and 43 have been rejected under 35 USC § 103(a) as being unpatentable over Shah-Nazaroff in view of Yui et al. (US Patent No. 6,972,680) (hereinafter "Yui").

For the reasons set forth below, Applicants respectfully traverses the rejections of these claims (for reasons (a)-(f)) and reconsideration is hereby respectfully requested.

Currently Amended Claim 2

[0022] The OA states (page 5) the following with regard to Claim 2:

As applied to claim 1 above, Shah-Nazaroff teaches a system in which the user can instruct the system to deliver program content a variety of resolutions, as shown in Fig. 5. In the embodiment taught in Fig. 5, the lowest resolution ("regular") is the default option and the user is charged more money depending on

the resolution he wishes to receive (e.g., "good" or "excellent"). It would have been obvious to one of ordinary skill in the art at the time of the invention that a user might wish to have a higher resolution set as the default level and that selecting to receive content at a lower level would result in a decreased charge according to the pricing scheme taught in Fig. 5.

[0023] The Shah-Nazaroff reference FIG. 5 teaches a display in which the user can select the program content deliverable in a variety of resolutions and get billed for charges in accordance with a single selection of either a 'regular' resolution or a 'high' resolution option. The selection is made only once and charges determined accordingly. Currently amended Claim 2 includes limitations, which are not taught or suggested by the Shah-Nazaroff reference, in which the content server is configured to receive the view control input as two commands corresponding to a first property and a second property. The valuation application is further configured to adjust the cost in accordance with the two commands. Support for currently amended Claim 2 is found in paragraph [0028] of the Application.

[0024] Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of currently amended Claim 2 should be withdrawn and the Claim allowed.

Currently Amended Claims 22 and 32

[0025] For reasons similar to those stated above in regards to Claim 2 rejected under 35 USC § 103(a), currently amended Claims 22 and 32 allowable in their present form for at least this reason.

Dependent Claim 9

[0026] The OA states (pages 5, 6) the following with regard to Claim 9:
Shah-Nazaroff teaches, "[t]he present invention allows viewers to purchase upgraded media features. ..

upgraded media features include, but are not limited to, a wide variety of audio, video, and interactive effects" (Col. 2, Lines 20-26). Shah-Nazaroff further teaches, "With the upgraded media features, processing server **310** places an order to the respective broadcast source or sources among broadcast sources **130** to have the upgraded media features provided to the viewer at client system **110**" (Col. 4, Lines 21-25).

Examiner takes Official Notice that it is well known in the art for the "interactive features" taught by Shah-Nazaroff in the context of a VOD system to be VCR-like functions such as fast-forward, rewind, pause, replay, etc. It would have been obvious to one of ordinary skill in the art at the time of the invention that the "interactive features" taught by Shah-Nazaroff could include a replay command as claimed and, in implementing the system of Shah-Nazaroff would have provided the benefits of VCR-like operations such as recited in claim 9.

[0027] The Shah-Nazaroff reference (FIG. 5; Col. 2, lines 20-26; Col. 4, lines 21-25, server 310, sources 130, and system 110) teaches system in which the user may order an upgraded media content and get billed for charges in accordance with the ordered upgrade to the media content. The selection to upgrade is made only once and charges determined accordingly. Claim 9 includes limitations, which are not taught or suggested by the Shah-Nazaroff reference, in which 'the valuation application is further configured to **increase the cost in response to the replay command**'. (emphasis added). The price increase is directly in response to the replay command. The Shah-Nazaroff reference teaches a cost that is fixed, displayed up-front for each media content option, and non-adjustable in response to subsequent view control inputs made after clicking the 'submit' button.

[0028] Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of Claim 9 should be withdraw and the Claim allowed.

Dependent Claims 10, 27, 28, 37, 39, 48, 49, 52, and 53

[0029] For reasons similar to those stated above in regards to Claim 9 rejected under 35 USC § 103(a), Claims 10, 27, 28, 37, 39, 48, 49, 52, and 53 are allowable in their present form for at least this reason.

Currently Amended Claim 3

[0030] The OA states (page 7) the following with regard to Claim 3:
While Shah-Nazaroff teaches the method of claim 1, it does not explicitly teach the subject matter recited in claim 3. Hoffberg teaches a system for distributing video content including the ability for a user to control the content and/or advertising information received. "In this case, the accounting system involves the user's account, and, for example, the recipient may be denied the subsidy from the commercial advertiser, and pay for the privilege of commercial free content" (Col 62, Line 59-63). Thus, Hoffberg teaches that if a user does not wish to view commercial or advertising content associated with content received he has the option of paying an increased fee to avoid such advertisements. As discussed above, Fig. 5 of Shah-Nazaroff teaches an embodiment for ordering multimedia content in which the user is presented with several options associated with the content such as upgrading the video or audio quality or the option to view and record the content, as well as the additional cost associated with each option. In view of Hoffberg's teaching to charge a user an additional fee to receive content without advertisements, it would have been obvious to one of ordinary skill in the art at the time of the invention to add an option to receive the content of Shah-Nazaroff's system with or without advertisements and to allocate a cost accordingly, thus providing users with the benefit of being able to view content without commercial interruption.

[0031] Applicants respectfully submit that the currently amended Claim 3 includes limitation 'the cost being adjusted **based on a base time-line, the base time-line including a media content duration and an advertisement duration**'. (emphasis added). Support for the currently amended Claim 3 is found in paragraph [0032] of the instant Application. Shah-Nazaroff and Hoffberg, considered individually or in combination, do not teach or suggest all the limitations of currently amended Claim 3. Consequently, for at least the above reasons, Applicants respectfully submit that

obviousness rejection of currently amended Claim 3 should be withdrawn and the Claim allowed.

Dependent Claim 5

[0032] The OA states (page 7) the following with regard to Claim 5:

As analyzed with respect to claim 3, Hoffberg teaches a system wherein the user can elect to pay a fee to receive content without commercials. The user interface taught in Fig. 5 of Shah-Nazaroff provides the equivalent functionality of the "view control input" as recited in claims 1 and 5 as it allows the user to select multimedia content to be rendered on the user's device. In view of Hoffberg's teaching to charge a user an additional fee to receive content without advertisements, it would have been obvious to one of ordinary skill in the art at the time of the invention to add an option to the interactive menu of Fig. 5 whereby the user could choose to receive the selected content with or without commercials and charge a fee as required.

[0033] Applicants respectfully submit that Shah-Nazaroff and Hoffberg (considered individually or in combination) do not disclose or suggest all the features of the Claim 5. Claim 5 includes the limitation "the valuation application is further configured to **decrease** the cost if the view control input is a command to render the advertisement for viewing". (emphasis added). On the contrary Hoffberg (Col. 62, lines 59-63) explicitly teaches away from decreasing the cost by teaching "the recipient may be denied the subsidy from the commercial advertiser". As such Hoffberg does not provide a motivation to "decrease the cost if the view control input is a command to render the advertisement for viewing" recited in Claim 5. Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of currently amended Claim 5 should be withdrawn and the Claim allowed.

Claims 6, 17, 19, 20, 23, 24, 26, 33, 35, 45, 47 and 56

[0034] For reasons similar to those stated above in regards to currently amended Claim 3 and Claim 5 rejected under 35 USC § 103(a), Applicants respectfully submit

that Shah-Nazaroff and Hoffberg (considered individually or in combination) do not disclose or suggest all the features of the Claim 6, currently amended Claim 17, Claims 19, 20, 23, 24, 26, currently amended Claim 33, Claim 35, currently amended Claim 45, Claims 47 and 56. Therefore, Claim 6, currently amended Claim 17, Claims 19, 20, 23, 24, 26, currently amended Claim 33, Claim 35, currently amended Claim 45, Claims 47 and 56 are allowable in their present form for at least this reason.

Claims 13-15 and 41-42

[0035] The OA states (page 9) the following with regard to Claim 13:

Shah-Nazaroff teaches the system of claim 1 but does not explicitly teach the functionality recited in claim 13. Eldering teaches distributing advertising with video content; as to the recited "[logging] whether the advertisement is rendered for viewing," Eldering teaches: The STB 510 tracks the content and the ads that are viewed. The tracking of ads includes the ads that were received and whether the ads or the alternative ads were viewed. ..Possible reasons for premature termination may include, but are not limited to, the viewer terminated the session, poor video quality, loss of video from the source, or the media server could not be found. [0111]. As analyzed above, and it would have been obvious to combine the teachings of Eldering and Shah-Nazaroff which would have rendered obvious the subject matter recited in claim 13.

[0036] Applicants respectfully submit that Shah-Nazaroff and Eldering (considered individually or in combination) do not disclose or suggest all the features of the Claim 13. Claim 13 includes the limitation "and **log** whether the advertisement is rendered for viewing based on the view control input". (emphasis added). On the contrary, Eldering paragraph [0111] only teaches or suggests 'tracking' the content and the ads that are viewed but not creating a log of the advertisement that is being tracked. As such Eldering does not provide a motivation to generate a "log" of the advertisement recited in Claim 13. Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of currently amended Claim 13 should be withdrawn and the Claim allowed.

Dependent Claims 14-15 and 41-42

[0037] For reasons similar to those stated above in regards to Claim 13 rejected under 35 USC § 103(a), Claims 14-15 and 41-42 allowable in their present form for at least this reason.

Claim 4

[0038] The OA states (page 10) the following with regard to Claim 4:

The rejection of claims 3 and 5 is incorporated herein. Shah-Nazaroff teaches the system of claim 1 and teaches that the system can be extended to include interactive features such as VCR-like functions, but does not explicitly teach the functionality recited in claim 4. Hoffberg teaches that viewers may elect to pay for the, "privilege of commercial-free viewing." Eldering teaches a method for providing advertising in a VOD environment. Eldering teaches, The definition of the advertising opportunities may be dictated by the video or may be dictated by the cost model that is selected either by the provider or the subscriber. For example, the cost model may be something along the lines of the less you want to pay for the video the more ads that you are presented with. [0058] Additionally, Eldering recognizes the likelihood that a user would attempt to skip over or fast-forward through advertising presented in conjunction with a VOD program and that this decreases or diminishes entirely the value of the advertisement to the advertiser [0110]. To preserve some value for the advertisers, Eldering teaches that the system can recognize when a user activates the skip or fast-forward functions while an advertisement is playing and take action to prevent the user from completely bypassing said commercial. While Eldering's system will either disable fast-forwarding during commercials or present an alternative advertisement, it would have been obvious to one of ordinary skill at the time of the invention to combine Eldering's method of recognizing when a user attempts to skip advertisements in a VOD program with the pricing scheme and cost structure taught by both Eldering and Hoffberg in modifying the system of Shah-Nazaroff which responds to a user's attempt to skip said advertisements by charging a fee for doing so. This would provide the user the benefit of not having to watch the commercials while allowing the distributor or the advertiser to recoup the value of the ads that are not displayed to the user.

[0039] Applicants respectfully submit that Shah-Nazaroff, Hoffberg, and Eldering (considered individually or in combination) do not disclose or suggest all the features of the Claim 4. Claim 4 includes the limitation "the valuation application is further

configured to **increase the cost in an event that the view control input is a command to advance past the advertisement such that the advertisement is not rendered for viewing**". (emphasis added). The OA admits (page 10) that Shah-Nazaroff does not explicitly teach the functionality recited in Claim 4. Eldering paragraphs [0058] and [0110] explicitly teach that 'when the subscriber attempts to skip or fast forward the ad, they are presented with an alternate ad in place or in conjunction the targeted ad'. Thus, Eldering teaches away from limitation of the Claim 4 by disabling the user to skip advertisements and forcing the user to view advertisements even if the user expressly inputs (via the view control input) to skip the advertisement. As such Eldering does not provide a motivation to combine the teachings of Shah-Nazaroff, Hoffberg and Eldering. Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of Claim 4 should be withdrawn and the Claim allowed.

Claims 18, 25, 34, 46 and 55

[0040] For reasons similar to those stated above in regards to Claim 4 rejected under 35 USC § 103(a), Claims 18, 25, 34, 46 and 55 allowable in their present form for at least this reason.

Claim 8

[0041] The OA states (page 12) the following with regard to Claim 8:
As discussed above, Shah-Nazaroff teaches the method of claim 1, it does not teach the functionality recited in claim 8. Stuckman teaches a system of distributing video to a subscriber wherein the cost charged to the viewer is dependent on the amount of the program watched by the viewer. "Further, the user may be billed based on how much of the video programs are viewed. ..The user may be billed for the Discovery Kids' show commensurate with three minutes of viewing time in contrast to viewing the whole show" [0087]. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the billing method taught by Stuckman into the content distribution system taught by Shah-Nazaroff to provide users of Shah-Nazaroffs system the benefit of only having to pay for content actually

viewed rather than for an entire program.

[0042] Applicants respectfully submit that Shah-Nazaroff and Stuckman (considered individually or in combination) do not disclose or suggest all the features of the Claim 8. Claim 8 includes the limitation "the valuation application is further configured **to decrease the cost in response to a distribution end of the media content**". (emphasis added). The OA admits (page 12) that Shah-Nazaroff does not explicitly teach the functionality recited in Claim 8. Stuckman paragraphs [0072] and [0087] explicitly teach that 'the billing system 100 charges subscribers for downloading the video programs'. That is, Stuckman teaches that the entire video program must be first downloaded (as it is being distributed) and saved in memory before it may be available for viewing. Claim 8 includes limitations that reduces the cost in response to receiving a view control input to end the **distribution** of the media content. Thus, Stuckman teaches away from the limitation of the Claim 8 by forcing the user to complete the download even if the user expressly inputs (via the view control input) to end the distribution. As such Stuckman does not provide a motivation to combine the teachings of Shah-Nazaroff, and Stuckman. Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of Claim 8 should be withdrawn and the Claim allowed.

Claim 36

[0043] For reasons similar to those stated above in regards to Claim 8 rejected under 35 USC § 103(a), Claim 36 is allowable in its present form for at least this reason.

Claim 16

[0044] The OA states (page 13) the following with regard to Claim 16:
The rejection of claim 9 is incorporated herein. Shah-Nazaroff teaches that the user can pay for "interactive features" (Col. 2, Lines 25-26) which, in the context of a VOD system, can include pausing a

program but does not explicitly teach that the user can pause a program and resume watching said program on a different client device, as recited in claim 16. Fig. 1 of Yui teaches a system in which a user viewing a broadcast television program in one location can move to another location and resume viewing that same program with "time shifted viewing" enabled [ABST]. Yui teaches the functionality recited in claim 16 and it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system of Shah-Nazaroff with the capability of beginning to watch a program in one location and being able to resume watching said program in another location, as taught by Yui. Such functionality would have been desirable as users often might wish to be able to start watching a program in one location (e.g., the living room of their house) and resume and/or finish watching that program in another location (e.g., their bedroom).

[0045] Applicants respectfully submit that Shah-Nazaroff and Yui (considered individually or in combination) do not disclose or suggest all the features of the Claim 16. Claim 16 includes the limitation "the valuation application is further configured to **increase the cost based on the second media stream**". (emphasis added). The OA admits (page 13) that Shah-Nazaroff does not explicitly teach that the user can pause a program and resume watching said program on a different client device, as recited in claim 16. Yui Abstract and FIG. 1 explicitly teach use of a single electronic key card for detecting movements of a user and directing the program in accordance with the detected position of the electronic key card. Thus, Shah-Nazaroff and Yui considered individually or in combination do not teach or suggest 'to increase the cost based on the second media stream' recited in Claim 16. Consequently, for at least the above reasons, Applicants respectfully submit that obviousness rejection of Claim 16 should be withdrawn and the Claim allowed.

Claim 43

[0046] For reasons similar to those stated above in regards to Claim 16 rejected under 35 USC § 103(a), Claim 43 is allowable in its present form for at least this reason.

CONCLUSIONS

[0047] For the foregoing reasons, the Applicants respectfully submit that the present application is now in a condition for allowance. Accordingly, the Examiner is requested to issue a Notice of Allowance for all pending Claims 1-56.

[0048] Should the Examiner deem that any further action by the Applicants would be necessary for placing this application in condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

Dated: _____

5-19-08

Respectfully submitted,

Lee & Hayes, PLLC

Customer No. 22801



Brian J. Pangre

Reg. No. 42,973

Telephone: 509-324-9256 Ext 231